

# Notice of Allowability

## Application No.

10/662,002

## Examiner

Vickie Kim

## Applicant(s)

PARK ET AL.

## Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Examiner's amendment requested on 11/10/04.
2. ☒ The allowed claim(s) is/are 1,5-9 and 12.
3. ☒ The drawings filed on 12 September 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☒ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: as of 11/10/04.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 12/2003
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 11/10/04.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
**VICKIE KIM**  
**PRIMARY EXAMINER**

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in PCT/KR02/00428 on 3/12/2001 and Korean application filed 3/12/2001. It is noted, however, that applicant has not filed a certified copy of the Korean application as required by 35 U.S.C. 119(b). Applicant is advised to submit certified copy to comply rule under 35 U.S.C. 119(a)-(d) to obtain the benefit of the filing date of a prior application filed in a foreign country.

### ***Status of Application***

1. The claims 1-12 are pending and presented for the examination. Due to restriction requirement/provisional election reply and allowable claimed subject matters found during the examination, both parties agreed on canceling non-elected claims(provisional) and the examiner's amendment that further accommodates all the changes to put this application under allowable condition is requested to expedite the prosecution. Detailed Examiner's Amendment is following.

## **EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

3. Authorization for this examiner's amendment was given in a telephone interview with Mr. Calson, John on 10/10/2004.
4. The application has been amended as follows:
  - a. Rewrite the claims 1 and 5 as following:

----- 1.(Currently amended) A therapeutic composition for topical application, consisting essentially of : a sphingolipid long-chain base present at from about 0.01 to 5.0% and lysophosphatidic acid present at from about 0.001 to 1.0%, wherein the shingolipid long-chain base is one or more selected from the group consisting of phytoshingosine, acetylphytosphingosine, tetraacetyl phytosphingosine, hexanoylphytoshingosine and acetylphytosphingosine phosphate.

Claim 5.(Currently amended) A therapeutic composition for topical application, consisting essentially of : 30 to 90% by weight of a substrate or a carrier for skin application; 0.01 to 5.0% by weight sphingolipid long-chain base; 0.001 to 1.0% by weight lysophosphatidic acid; and 1.0 to 40% by weight of organic or inorganic additives, wherein the shingolipid long-chain base is one or more selected from the group consisting of phytoshingosine, acetylphytosphingosine, tetraacetyl phytosphingosine, hexanoylphytoshingosine and acetylphytosphingosine phosphate. ---

- b. Claims 2-4 and 10-11. (Canceled)

### ***Reasons for allowance***

5. Claims 1, 5-9 and 12 are allowable over the prior art.
6. It is noted that a potential divisional application that is drawn to a invention containing non-elected invention(i.e. claims 10-11) will not be subjected to double patenting rejection over the instant application.
7. The following is an examiner's statement of reasons for allowance: All the claimed subject matter is novel and not obvious over any prior art of the record. US 6348201B2(Murata et al) teaches an external composition for skin comprising a

sphingoglycolipid having the specific formula I as recited in abstract. It also teaches various additives such as phytosphingosine (Col. 12, lines 41), lysophosphatidyl choline, phosphatidic acid, etc (Col. 10, lines 60-67). However, it fails to teach a combination of consisting essentially of 0.01 to 5% of sphingolipid long chain base such as phytosphingosine and about 0.001-1% of lysophosphatidic acids used as only active agent for topical composition. Furthermore, there is no motivation or suggestion to make such combination and thus, the claimed subject matter is considered to be patentably distinct over the prior art of the record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

8. All the pending claims 1, 5-9 and 12 are allowed.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vickie Kim whose telephone number is 571-272-0579.

The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on 571-272-0953. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
VICKIE KIM  
PRIMARY EXAMINER  
Primary Patent Examiner  
November 15, 2004  
Art unit 1614